

# APPLICATION FOR A PERMIT TO ABANDON A DAM

FORM 3500-30  
(11/12)

State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

101 S. Webster Street, P.O. Box 7921, Madison, WI 53707-7921

NAME OF OWNER				
STREET OR ROUTE				
CITY, STATE, ZIP CODE				
NAME OF DAM			NAME OF STREAM	
QQ SECTION	Q SECTION	TOWNSHIP	RANGE	<input type="checkbox"/> EAST <input type="checkbox"/> WEST
NAME OF TOWN			COUNTY	
REASON FOR PROPOSAL TO ABANDON				
INTEREST WHICH MAY BE AFFECTED BY THE ABANDONMENT (DESCRIBE COTTAGE OR RESIDENTIAL DEVELOPMENT AROUND THE POOL AND GIVE A GENERAL STATEMENT OF PUBLIC USE OF THE POOL FOR RECREATION OR INDUSTRY).				
			SIGNATURE	
			DATE	

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NOTE: Applicant should read Section 31.185, Wisconsin Statutes. Application should be prepared to submit facts at any hearing which would justify the request for abandonment, if such presentation becomes necessary by reason of opposition to the proposal as provided in Section 31.185(4).

## WISCONSIN Water Regulation Handbook

### Abandonment

Section 31.18 provides abandonment procedures for dams authorized by s. 31.33, Mill Dam Act and Legislative grants.

Section 31.185 requires a permit to abandon a dam initially authorized under s. 31.06 or 31.08. This includes a public notice and hearing if necessary. A 120 day waiting period is provided if there is an objection to the abandonment.

Section 31.187 provides the Department with authority to remove dams that have been abandoned. Prior to the Department removing the dam, s. 31.253 requires a public notice and /or informational hearing unless it is an emergency.

### STANDARDS

1. **ABANDONMENT.** Dam removal standards can be found in s. 31.18 for dams authorized by s. 31.33, the Mill Dam Acts and legislative grants s. 31.185 for dams authorized under Sections 31.06 and 31.08. Although s. 31.18 requires approval and s. 31.185 requires a permit, the statutory standards are almost identical.

Our general policy requires the removal of all structures regardless of whether they were originally below the OHWM. The Department may allow a portion of the structure to remain if the owner can demonstrate that it will not be hazardous.

- a. Our specific statutory standards to consider are:

- 1.) Protection/preservation of public rights in navigable waters. The public has a right to wade, swim, fish, boat, enjoy scenic beauty, and all other incidents of navigation.

These rights are commonly associated with the normal use of the river during normal stream flow. Protection of these rights require, at a minimum, removal of all structures below the normal OHWM (e.g. before the dam was in place).

- 2.) Promote Safety (only in s. 31.185)

As many hazardous or attractive nuisance as possible should be eliminated from any remaining structures. If a structure cannot be made safe it should be removed regardless of impact to flood flows or its relationship to the river. Excessively steep slopes should either be flattened or fenced and signed. The profile of the stream bed should be considered and it's danger to waders or fishermen assessed.

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### 3.) Protection/preservation of life, health and property

Some of the same kinds of concerns listed in item b should be considered under this standard. In addition, the effect any remaining structures will have on flood flows and the potential for downstream damage from failure during such flood flows must be assessed. If an owner wishes to retain portions of the structure, above the OHWM, (s)he must show:

- a) That the structure will cause no more than two feet of backwater during the regional flood.
  - b) That the remaining structure will be stable during the regional flood.
  - c) That rights to flow areas inundated by the structure during the regional flood have been retained or acquired.
- b. Generally the applicant should be required to provide any technical hydrologic/hydraulic analysis. For very small removal projects (under \$125,000) the Department may provide technical help. Analyses should include the following:
- 1) An estimate of the 100 year flood in accordance with the standards of NR 116.07(3).
  - 2) A profile of the regional flood with the dam in place considering the routing effects of the dam.
  - 3) A profile of the regional flood, both upstream and downstream, without the dam in place.
  - 4) A comparison of the above two profiles to the point of convergence downstream.
  - 5) A delineation of the 100 year flood with the dam removed covering the area of convergence shown in item d above.

Downstream easements for additional flooding caused by dam removal are not required before we allow abandonment. To do so would require the owner to perpetually maintain a benefit to downstream properties.

- c. A sediment control plan consisting of an explanation of what's there and how the owner intends to stabilize the bed after removal should be required. This plan should include the following items:
- 1) Existing bed contours.
  - 2) Grading proposals.
  - 3) Seeding plan.
  - 4) Necessary riprap
  - 5) Drawdown procedure.

Sediment sampling may be required. The number of samples and chemicals tested should be case specific (consult with district dredging coordinator). In some cases where we have

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no real indication that the sediment could have been contaminated we may require no testing. Refer to NR 347 for specifics.

## Process

### 1. ABANDONMENT

- a. **Application** – Often, dam owners are reluctant or unable to spend the amount of money necessary to repair or maintain the dam. The dam owner is not obligated to maintain the dam forever. The owner is ready to abandon the dam or to transfer ownership to anyone. Commonly, no one wants to acquire the dam but there is much vocal opposition to abandonment. We usually recommend that the owner apply to abandon the dam. A public hearing may help to find a financially capable entity to accept transfer of the dam.

In addition to the information in the "Permit to Abandon a Dam" (Form 3500-30), an application must also specify:

- 1) Proof of ownership of the dam.
- 2) The drawdown procedure to be used prior to dismantling of the dam.
- 3) The parts of the dam that will be removed to render it abandoned.
- 4) The method by which the dam will be removed.
- 5) The disposal site for dam materials.
- 6) Stream channel and flowage bed restoration and protection needs.

Removal of a dam would modify flood profiles both upstream and downstream. Any existing floodplain ordinance should be modified to reflect the changes.

- b. **Field Investigations** – The investigation should consider:
- 1) Whether the removal plan is adequate based on the site and structural features of the dam.
  - 2) Potential safety problems with remaining portions of the dam.
  - 3) Impoundment bank features which might indicate potential erosive conditions caused by the proposed drawdown.
  - 4) Sediment contamination and erosive conditions to determine adequacy of proposed restoration measures.
  - 5) Impact on riparian property, existing uses and fish/aquatic life.
  - 6) Future public uses (navigation and incidents thereof).
  - 7) Time limit for completion of the abandonment.
- c. **Environmental Analysis** – NR 150 identifies the abandonment of a large dam as a Type II action which requires that an Environmental Analysis be prepared; however, abandonment of small dams is a Type III action.

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- d. **Notice and Hearing Requirements** – Sections 31.18 and 31.19 can be used to issue an order without a hearing; however, s. 31.185 requires a public notice and hearing (if requested).
- e. **Final Disposition** – Permits should be conditioned to ensure protection of public interests and may require:
  - 1) Removal of specified portions of the dam.
  - 2) Safe and appropriate dam dismantling methods.
  - 3) Proper disposal of removed materials.
  - 4) Restoration of the site to a stable condition.
  - 5) Measures needed to retard erosion of sediment from the new channel and exposed lakebed (above the dam) as well as techniques to trap sediment from flowing downstream. Refer to erosion control specifications under "Abandonment" in the Standards section.
  - 6) Approval of a final engineering plan for approval